

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No.: 23-CIV-80730-MATTHEWMAN

CHRISTOPHER DEVITO,

Plaintiff,

v.

PALM BEACH COUNTY, a political subdivision of the State of Florida

Defendant.

/

DEFENDANT'S MOTION FOR STATUS CONFERENCE

Defendant, PALM BEACH COUNTY, by and through undersigned counsel, moves this Court for entry of an Order scheduling a status conference in this matter, and states:

1. This case is set for trial beginning on September 23, 2024.
2. As of the filing of the instant Motion, there remains outstanding discovery, including the deposition of the Plaintiff and additional trial witnesses.
3. On May 28, 2024, Defendant filed a Motion for Extension of Time to Complete Discovery and File Pretrial Motions [DE 62] asking for a three-week extension of each deadline. Prior to filing the Motion [DE 62], the undersigned conferred with counsel for Plaintiff, who, at no point, indicated that her office or Plaintiff would be unavailable during the requested three-week extension.
4. On May 30, 2024, the Court granted the requested three-week extension [DE 64].
5. The Court's Order extended the deadline for completing discovery through June 24, 2024 and the deadline for filing pretrial motions through July 22, 2024.
6. Upon receiving the Court's Order on May 30, 2024, the undersigned's office attempted to coordinate a date for Plaintiff's deposition, requesting first, any availability for the

week of June 3, 2024.

7. Having not received a response, on May 31, 2024, the undersigned's office followed up on the request to coordinate Plaintiff's deposition.

8. Plaintiff's counsel's office responded that they "spoke to Mr. Devito and he has informed us that he has a pre-planned vacation starting June 3 through June 17. The first available date to have his depo live will be June 20 or 21."

9. The undersigned replied to the email, requesting, among other things, information regarding (1) when Plaintiff's counsel's office learned of Mr. DeVito's vacation and (2) when Mr. DeVito's vacation was scheduled.

10. Undersigned followed up with telephone calls to Plaintiff's counsel's office. On the same day, May 31, 2024, the undersigned was able to speak with Jennifer Daley, Esquire, regarding Defendant's concern that a June 20 deposition date would be at the tail end of the three-week extension granted by the Court and would limit Defendant's ability to follow up on any information learned during Plaintiff's deposition.

11. Ms. Daley indicated that Plaintiff might have scheduling issues with work but that her office was in contact with Plaintiff, and that she and William Amlong, Esquire, would speak to Plaintiff about his possible availability for deposition on earlier dates. As a possible workaround, the undersigned and Ms. Daley discussed: (1) scheduling Plaintiff's deposition on June 20, 2024 and reserving the day on June 24, 2024, for any follow-up depositions that may become necessary and (2) Ms. Daley indication that Plaintiff would be open to setting depositions after June 24, 2024, if necessary. The undersigned expressed that these options were not ideal as Defendant would like to complete outstanding discovery within the extension granted by the Court, if possible, and that she would follow up with Plaintiff's counsel about earlier dates for Plaintiff's

deposition. The foregoing was memorialized in an email following the phone call.

12. On June 3, 2024 and June 4, 2024, the parties continued to discuss the scheduling of Plaintiff's deposition, with Plaintiff's counsel's office directing that Plaintiff's deposition be noticed for June 20 and that the office would hold the day on June 24 for follow up depositions. There has been no information regarding the possibility of scheduling Plaintiff's deposition earlier or about when Plaintiff's vacation plans were made and when they were relayed to his counsel.

13. Accordingly, Defendant will schedule the deposition as requested by Plaintiff and will make every effort to complete discovery by June 24, 2024.

14. Defendant remains concerned that by having to take Plaintiff's deposition near the end of the 3-week extension the Court granted, the parties will be in a similar position as if the Court had not granted the extension. Likewise, Defendant seeks to avoid any additional delays to ensure the timely filing of pretrial motions to allow for rulings by the Court prior to the scheduled trial on September 23, 2024.¹

15. Accordingly, Defendant wishes to bring this matter to the Court's attention and to seek the Court's guidance regarding same.

16. The parties have conferred and are available for a brief status conference on the following dates: Thursday, June 6, 2024 between 12:00 p.m. and 2:00 p.m. and Friday, June 7, 2024, between 12:00 p.m. and 3:30 p.m.

WHEREFORE, Defendant, PALM BEACH COUNTY, respectfully requests the Court enter an Order setting a status conference hearing, so that the parties may obtain guidance from the Court on how to proceed as to the foregoing issues.

¹ The undersigned acknowledges that the parties' current scheduling challenges likely would not have existed had she been well enough to proceed with Plaintiff's deposition as it had originally been scheduled. Accordingly, she is willing to rearrange what she can to meet current deadlines.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(3)

Undersigned counsel hereby certifies that she has conferred with counsel for Plaintiff in a good faith effort to resolve the issues raised in this Motion. Counsel for Plaintiff has indicated availability for a brief status conference on Thursday, June 6, 2024 between 12:00 p.m. and 2:00 p.m. and Friday, June 7, 2024, between 12:00 p.m. and 3:30 p.m. The undersigned is also available during these timeframes.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 5, 2024, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will send an electronic notice to the authorized CM/ECF filers.

/s/ Toni-Ann S. Brown
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